



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2018-0272; FRL-9981-09-Region 9]

Air Plan Approval; California; San Joaquin Valley Unified Air Pollution Control District;

Reasonably Available Control Technology Demonstration

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve revisions to the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD or “District”) portion of the California State Implementation Plan (SIP). These revisions concern the District’s 2014 demonstration regarding Reasonably Available Control Technology (RACT) requirements for the 2008 8-hour ozone National Ambient Air Quality Standard (NAAQS). We are also taking final action to approve into the California SIP the following documents that help support the District’s RACT demonstration: SJVUAPCD’s supplement to its 2014 RACT SIP demonstration, which contains SJVUAPCD’s negative declarations where the District concludes it has no sources subject to certain Control Techniques Guidelines (CTG) documents and relevant permit conditions to implement RACT level requirements for J.R. Simplot’s Nitric Acid plant in Helm, California (CA); and SJVUAPCD’s 2016 Ozone Plan for the 2008 8-Hour Ozone Standard – Chapter 3.4 and Appendix C only. We are approving local SIP revisions to demonstrate that RACT is implemented as required under the Clean Air Act (CAA or the “the Act”).

DATES: This rule will be effective on [**Insert date 30 days after date of publication in the Federal Register**].

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R09-OAR-2018-0272. All documents in the docket are listed on the <https://www.regulations.gov> web site. Although listed in the index, some information is not publicly available, *e.g.*, Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <https://www.regulations.gov>, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Stanley Tong, EPA Region IX, (415) 947-4122, tong.stanley@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, “we,” “us” and “our” refer to the EPA.

Table of Contents

- I. Proposed Action
- II. Public Comments and EPA Responses
- III. EPA Action
- IV. Incorporation by Reference
- V. Statutory and Executive Order Reviews

I. Proposed Action

On May 17, 2018 (83 FR 22908), the EPA proposed to approve SJVUACPD’s “2014 Reasonably Available Control Technology (RACT) Demonstration for the 8-Hour Ozone State Implementation Plan (SIP)” (*2014 RACT SIP*), submitted to the EPA by the California Air

Resources Board (CARB) on July 18, 2014,¹ for approval as a revision to the California SIP.

In addition to the *2014 RACT SIP*, our May 17, 2018 proposed rule was also based on our evaluation of the public draft version of SJVUAPCD's "Supplement to the 2014 Reasonably Available Control Technology (RACT) State Implementation Plan (SIP) for the 2008 8-hour Ozone Standard" (*Supplement to the 2014 RACT SIP*) that was transmitted by CARB on May 4, 2018, along with a request for parallel processing.² The District's *Supplement to the 2014 RACT SIP* contained relevant RACT permit conditions in a permit to operate for J.R. Simplot's Nitric Acid plant in Helm, CA, and negative declarations where the District concluded it had no sources subject to the following CTG source categories: surface coating of insulation of magnetic wire; manufacture of synthesized pharmaceutical products; manufacture of pneumatic rubber tires; leaks from synthetic organic chemical polymer and resin manufacturing equipment; volatile organic compound (VOC) emissions from manufacture of high-density polyethylene, polypropylene and polyester resins; VOC emissions from air oxidation processes in synthetic organic chemical manufacturing industry (SOCMI); VOC emissions from reactor processes and distillation operations in SOCMI; and surface coating operations at shipbuilding and ship repair facilities.³ We indicated that we would not take final action on the *Supplement to the 2014 RACT SIP* until CARB submitted the final adopted version to the EPA as a SIP revision. On June 21, 2018, the SJVUAPCD held a public hearing and adopted the *Supplement to the 2014 RACT SIP*.⁴

¹ The SJVUAPCD adopted its *2014 RACT SIP* on June 19, 2014.

² CARB's May 4, 2018 transmittal letter contained a public draft version of the *Supplement to the 2014 RACT SIP* along with a request that the EPA provide parallel processing of the documents concurrently with the state's public process. See footnote 1 in our May 17, 2018 proposed rule.

³ See *Supplement to the 2014 RACT SIP*, Appendix B.

⁴ On June 21, 2018, the SJVUAPCD Governing Board adopted "Revision to the State Implementation Plan (SIP) to Address Federal Clean Air Act Requirements for Reasonably Available Control Technology (RACT)". Appendix A:

On June 29, 2018, CARB submitted the *Supplement to the 2014 RACT SIP* to the EPA for approval as a revision to the California SIP.⁵ The final adopted version of the *Supplement to the 2014 RACT SIP* includes non-substantive changes from the public draft version that was the basis for our May 17, 2018 proposed rule. These changes include streamlining J.R. Simplot’s introductory section listing the plant’s major equipment to just state “Nitric Acid Plant”; restoring a permit condition that EPA Reference Method 7 will be used to determine compliance with oxides of nitrogen (NO_x) limits; and removing reference citations to a local rule and federal regulations that were inadvertently left in the permit. The NO_x emission limits remain unchanged from the version of the permit included in our May 17, 2018 proposed rule. In addition, when comparing the public draft version included in our May 17, 2018 proposed rule and the final version adopted by the District on June 21, 2018, we noted minor editorial changes in the text preceding the list of negative declarations. The primary substance of the District’s negative declarations, that is, recertification of three prior negative declarations, and the adoption of five new negative declarations, remain unchanged. We therefore consider these editorial changes to also be non-substantive. On July 11, 2018, we found the *Supplement to the 2014 RACT SIP*, including the relevant operating permit conditions to implement NO_x RACT for J.R. Simplot’s Nitric Acid Plant in Helm, CA, and several negative declarations, met the completeness criteria

“J.R. Simplot Permit Conditions” and Appendix B: “Negative Declarations”, as contained in the adopted document, are substantially similar to the versions contained in the District’s parallel processing request which the EPA proposed to approve on May 17, 2018. We will reference the District’s June 21, 2018 adopted document as “*Supplement to the 2014 RACT SIP*” to maintain consistency with how this action was referenced in our May 17, 2018 proposed rulemaking.

⁵ As explained in our May 17, 2018 proposed rulemaking, the EPA is following its regulatory procedures for parallel processing. See 40 CFR Part 51, appendix V. These procedures allow the EPA to approve a state’s submittal, following parallel state and federal comment periods, provided the final provision adopted at the state level has no significant changes from the proposal.

in 40 CFR part 51, appendix V.

We are also approving portions of SJVUAPCD's "2016 Ozone Plan for the 2008 8-Hour Ozone Standard" (*2016 Ozone Plan*), which help to supplement the District's *2014 RACT SIP*. The plan was adopted by the District on June 16, 2016, and submitted by CARB to the EPA on August 24, 2016, as a revision to the California SIP. Specifically, as discussed in our May 17, 2018 proposed rule, Chapter 3.4 of the *2016 Ozone Plan* states that "the District updated the RACT evaluation and included VOC sources in the evaluation in Appendix C." Appendix C of the *2016 Ozone Plan*, which is titled, "Stationary and Area Source Control Strategy Evaluations," includes evaluations of individual rules for RACT. We are only approving Chapter 3.4 and Appendix C of the *2016 Ozone Plan* in order to demonstrate VOC RACT for all applicable sources for the 2008 NAAQS.

As discussed in our proposed rule, the District's *2014 RACT SIP* contains its analysis of NO_x RACT for the 2008 NAAQS. For more background information and a more extensive discussion of the *2014 RACT SIP*, the *Supplement to the 2014 RACT SIP*, Chapter 3.4 and Appendix C of the *2016 Ozone Plan*, and our evaluation of them for compliance with CAA RACT requirements, please see our proposed rule and related technical support document.

II. Public Comments and EPA Responses

The EPA's proposed action provided a 30-day public comment period. During this period, we received one anonymous comment that was outside the scope of this rulemaking. The comment was not germane to our evaluation of the submitted SJVUAPCD documents to demonstrate that the District's stationary sources are subject to RACT requirements.

III. EPA Action

No comments were submitted that change our assessment of the submitted documents as described in our proposed action. Therefore, as authorized in section 110(k)(3) of the Act, the EPA is fully approving the following documents into the California SIP: SJVUAPCD's *2014 RACT SIP*; the *Supplement to the 2014 RACT SIP* including relevant permit conditions for J.R. Simplot's Nitric Acid Plant in Helm, CA and negative declarations for the CTG source categories: surface coating of insulation of magnetic wire; manufacture of synthesized pharmaceutical products; manufacture of pneumatic rubber tires; leaks from synthetic organic chemical polymer and resin manufacturing equipment; VOC emissions from manufacture of high-density polyethylene, polypropylene and polyester resins; VOC emissions from air oxidation processes in SOCMI; VOC emissions from reactor processes and distillation operations in SOCMI; and surface coating operations at shipbuilding and ship repair facilities; and the *2016 Ozone Plan* – only Chapter 3.4 and Appendix C.

IV. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of certain permit conditions for the J.R. Simplot Nitric Acid Plan in Helm, CA and described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these documents available through www.regulations.gov and at the EPA Region IX Office (please contact the person identified in the “**FOR FURTHER INFORMATION CONTACT**” section of this preamble for more information).

V. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that

complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. section 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[insert date 60 days after date of publication in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: July 12, 2018.

Michael Stoker,
Regional Administrator,
Region IX.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52 - APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

AUTHORITY: 42 U.S.C. 7401 *et seq.*

Subpart F - California

2. Section 52.220 is amended by adding paragraphs (c)(449)(ii)(D), (c)(496)(ii)(B), and (c)(507) to read as follows:

§52.220 Identification of plan – in part.

* * * * *

(c) * * *

(449) * * *

(ii) * * *

(D) San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD).

(I) SJVUAPCD “2014 Reasonably Available Control Technology (RACT) Demonstration for the 8-Hour Ozone State Implementation Plan (SIP),” dated June 19, 2014, as adopted by the SJVUAPCD on June 19, 2014.

* * * * *

(496) * * *

(ii) * * *

(B) San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD).

(I) SJVUAPCD “2016 Ozone Plan for 2008 8-Hour Ozone Standard,” dated June 16, 2016, Chapter 3.4 and Appendix C only, as adopted by the SJVUAPCD on June 16, 2016.

* * * * *

(507) New regulations for the following APCD were submitted on June 29, 2018 by the Governor’s designee.

(i) *Incorporation by reference.* (A) San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD).

(I) Permit #C-705-3-19, J.R. Simplot Company, Nitric Acid Plant, Helm, CA, adopted by the SJVUAPCD, Resolution No.18-06-14, June 21, 2018.

(ii) *Additional materials.* (A) San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD).

(I) SJVUAPCD “Appendix B Negative Declarations For Proposed Revision to the State Implementation Plan (SIP) to Address Federal Clean Air Act Requirements for Reasonably Available Control Technology (RACT) June 21, 2018,” containing negative declarations, as adopted by the SJVUAPCD on June 21, 2018.

3. Section 52.222 is amended by adding paragraph (a)(8)(iii) to read as follows:

§52.222 Negative declarations.

(a) * * *

(8) * * *

(iii) The following negative declarations for the 2008 NAAQS were adopted by the San Joaquin Valley Unified Air Pollution Control District on June 21, 2018, and submitted to the EPA on June 29, 2018.

NEGATIVE DECLARATIONS FOR THE 2008 OZONE NAAQS

CTG Document Number	Title
EPA-450/2-77-033	Control of Volatile Organic Emissions from Existing Stationary Sources – Volume IV: Surface Coating of Insulation of Magnet Wire
EPA-450/2-78-029	Control of Volatile Organic Emissions from Manufacture of Synthesized Pharmaceutical Products
EPA-450/2-78-030	Control of Volatile Organic Emissions from Manufacture of Pneumatic Rubber Tires
EPA-450/3-83-006	Control of Volatile Organic Compound Leaks from Synthetic Organic Chemical Polymer and Resin Manufacturing Equipment
EPA-450/3-83-008	Control of Volatile Organic Compound Emissions from Manufacture of High-Density Polyethylene, Polypropylene, and Polystyrene Resins
EPA-450/3-84-015	Control of Volatile Organic Compound Emissions from Air Oxidation Processes in Synthetic Organic Chemical Manufacturing Industry
EPA-450/4-91-031	Control of Volatile Organic Compound Emissions from Reactor Processes and Distillation Operations in Synthetic Organic Chemical Manufacturing Industry
EPA-453/R-94-032	Alternative Control Technology Document – Surface Coating Operations at Shipbuilding and Ship Repair Facilities
61 FR 44050 8/27/96	Control Techniques Guidelines for Shipbuilding and Ship Repair Operations (Surface Coating)

* * * * *